IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

WP(C).No. 16653 of 2007(G)

PETITIONER:

M/S. MASCOT FROZEN FOODS(P)LTD.,
MASCOT BUILDING, N.H.47, AMBATTUKAVU,
ALUVA, REP. BY MANAGING DIRECTOR,
A.K.MOHAMMED ALI.

BY ADV. SRI.TOMY EAPEN
SRI.JIJO PAUL KALLOOKKARAN

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO GOVERNMENT, TAXES DEPARTMENT,
THIRUVANANTHAPURAM.

2. THE DEPUTY COMMISSIONER(APPEALS),
COMMERCIAL TAXES, ERNAKULAM.

3. THE SALES TAX OFFICER,
2ND CIRCLE, TRIPUNITHURA.

4. THE GENERAL MANAGER,
DISTRICT INDUSTRIES CENTRE,
GHANDHI NAGAR, KOCHI-20.

BY ADV. SHRI.MOHAMMED RAFFIQ, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 16653 of 2007

Dated, this the 1st day of June, 2007

J U D G M E N T

Petitioner is challenging Ext.P6 order where under the appellate authority directed payment of 1/3rd as a condition for stay against recovery of arrears of tax due for the years 2002-03 and 2003-04. It is not proper to decide on merits and to interfere with the conditional order, when appeal is to be decided by statutory authority. However, having regard to the nature of the dispute and the interest demanded, I modify Ext.P6 by reducing payment to ¼th and granting two equal installments to the petitioner to clear the same, first of which will be paid within three weeks from now and balance within three weeks thereafter. The appellate authority is directed to take up the appeal and dispose of the same within three months from the date of making payment as above. Recovery proceedings will be kept in abeyance for the above period and if payment is made as above stay will continue till disposal of appeal and if payment is not made, recovery will be continued for recovering entire arrears.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg